

1904-045

Lee Co.

CHANCERY PAPERS  
Chancery Causes: D. G. McKinney vs. C. H. Lewis &c

1878

Davidson, Legg, Barker

NO 1472-1474 - 1874 1875 1876 1877 1878

CA-Debt  
T-Property

-Deed



To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

Humbly complaining your orator D.G.McKinney,would respectfully represent and show unto your honor as follows:

That on the 17th day of November,1903,C.H.Lewis,S.F.Davidson and B.F.Davidson executed and delivered to your orator their note in writing,whereby they agreed and promised to pay to your orator the sum of \$100,to become due and payable Sixmonths after the date thereof, which said note your orator here files as part of this bill marked exhibit "A".

That the debt for which said note was executed was part of the purchase price of a stock of goods sold by your orator to the said Lewis on the day which said note was executed,and said Davidsons signed said note as surety thereto.

That a few days ago the said C.H.Lewis sold the whole of said stock of goods to one Wm.T.Barker,without having complied with the requirements of the recent act of the legislature,to wit the act passed May 20,1903,reported in the Acts of Extra Session 1902-3,page 518. The said Lewis was engaged in buying and selling merchandise,and at the time aforesaid sold out his complete stock of goods to said Barker without having complied with the said act as aforesaid. He failed to give any notice of the intended sale and of ceasing said business,failed to furnish any statement or list to said Barker of said creditors,and said Barker failed to require any list and failed to notify any of the creditors of said Lewis of the intended purchase, as the law requires,but unlawfully and fraudulently purchased said stock of goods out and out contrary to law and proceeded forthwith to pay to the said Lewis all the purchase price of said goods which your orator is informed/was the sum of \$140.00,except the sum of about \$40.00,which your orator is informed he still owes.

Your orator will furthur represent and show unto your honor that the said C.H.Lewis and F.S.Davidson are the owners of a one third each undivided contingent reversionary interest in a certain tract of land situated in the Craborchard,on the waters of Big Craborchard  
~~and to pass as conveyed by the said~~



Your orator will furthur represent and show unto your honor that the said C.H.Lewis on the 18th day of Nov.1903,to secure the payment of the sum of \$100 executed a deed of mortagage to U.S.Grant Legg,a copy of which is here filed as part of this bill.

Your orator further represents and will show unto your honor that said C.H.Lewis and S.F.Davidson are trying to dispose of and make sale of their interest in the said real estate,~~or interest in said real estate as aforesaid,~~with the intent to hinder,delay and defraud their creditors,and especially your orator in the collection of his said debt;that said C.H.Lewis is already a non resident of the State,having recently left the State;;and your orator believes and charges that the said B.F. and S.F.Davidson are intending to remove from the State,and intend to sell and dispose all of their estate both personal and real and carry the same away with them,with the intent to hinder,delay and defraud the<sup>ir</sup> creditors and especially your orator in the collection of his debt;and your orator alleges that if left to the ordinary course of law he will be defeated in the collection of his said debt.

Your orator alleges that the said mortgage given by said Lewis to said Legg is the first lien against said interest in said real estate, and that the lien of your orator by reason of the attachment sued out herein is the second lien thereon, and that the lien of your brators attachment on the said interest of the said S.F. Davidson is the first lien against her interest in said real estate, and that *these two debts are the only liens thereon.*



The premises considered your orator is advised that he has a right first to subject under the attachment issued in this cause any funds or debts due said C.H.Lewis in the hands of W.T.Barker; second, when that is exhausted he has the right to have the real estate of said C.H.Lewis sold and applied to said debt, and if that is still insufficient he has the right to require the said W.T.Bailey to pay over the remainder of the purchase price of the said goods, or enough thereof to pay said debt, and in the event that is or can not be done, that then he has the right to have sold the said real estate of the said surety the said S.F.Davidson.

The prayer therefore of your orator is that the said C.H.Lewis, F.S.Davidson B.F.Davidson, U.S. Grant Legg and W.T.Bailey be made parties defendant to this bill of complaint and be required to answer the same but not under oath, that being expressly waived, that upon a hearing the said Barker be required to pay over such sum as is in his hands unpaid for said goods and that then said interest of said Lewis in said real estate be sold and after applying enough to pay said debt of said Legg the remainder be applied to your orators debt, if any; that in the event these two items do not pay said debt and the costs of this suit that then said Barker be required to pay over the remainder of the purchase price of said goods, or that the interest of the said S.F. Davidson be sold and applied, which <sup>is</sup> is, in the opinion of the court, the proper thing to do; and may all other further and general relief be granted your orator that the nature of his cause and good conscience demands; and May order of publication be made, posted and published as the law requires for non resident defendants as to said C.H.Lewis, may spa, issue directed &c, and your orator will ever pray &c.

William P. P. Q. P.Q.

Virginia, Lee County to wit:

I, A.B. Munsey, Clerk of the Circuit court for Lee county, do hereby certify that D.G. McKinney this day made oath before me that the statements made in the foregoing bill so far as made upon his own information are true and so far as made upon information derived from others he believes to be true. Given under my hand this the 29th day of Jan. 1904.

A.B. Munsey Clerk.



Plffs Costs \$  
Murray C. 5.64 pd.

Morgan C. 1.75

Embry C. 1.80

Shiff. 3.50

Atty. 5.00  
\$17.69

12-0-5

D. G. McKinney

vs. 3 Bess In  
3 Choucy

C. H. Lewis et al

Filed January 29<sup>th</sup> 1904

A. B. Murray Clerk

1904 2<sup>nd</sup> Feb. Rules Spa ex

ecuted as to F. S. Davidson

B. P. Davidson U. S. Grant

Legg & H. T. Barker &

D. N. as to them.

1<sup>st</sup> March rules D. N.  
confirmed & cause set  
for hearing

Pennington Bros.

ATTORNEYS AT LAW

JONESVILLE AND PENNINGTON GAP VA.



D. H. McKinney

7. ~~3~~ ~~Dear~~

Off Lewis it is  
      

En. C. B. No. 7,

Page 469

Let. this May  
19 1904  
H. C. W. Sherr



D. G. MCKINNEY, COMPLAINANT

v.

C. H. LEWIS ET AL, DEFENDANTS

IN CHANCERY.

This cause came on this day to be heard upon the bill of  
the complainant and upon motion of the plaintiff, this cause  
is dismissed and stricken from the docket.



*in the year*

THIS INDENTURE made this 18th day of November, 1903, between Charles H. Lewis of the first part and U. S. G. Legg of the second part, both parties of the Crabborchard County of Lee and State of Virginia;

Whereas the said party of the first part is justly indebted to the said party of the second part, in the sum of One hundred dollars secured to be paid by one certain promissory note bearing even date herewith due and payable twelve months after date, interest bearing from November the 18th 1903, Now, therefore this Indenture Witnesseth, that the said party of the first part for the better securing the payment of the money aforesaid, with interest thereon according to the tenor and effects of the said promissory note above mentioned, and also in Consideration of the further sum of One dollar to him in hand paid, by the said party second part at the delivery of these presents the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed and by these presents do grant, bargain sell and convey unto the said party of the second part his heirs and assigns forever all that certain tract or parcel of land situated in the Crab-orchard Lee County in the State of Virginia, on the waters of the Big Crab-orchard and north Fork Creek, and bounded as follows viz; Being the undivided interest of a tract of land deeded to Louisa J. Legg by her father Thomas H. Legg to her during her natural life then to her heirs of which said party of first part is one of their heirs now living which is one-third part of thirty acres which is now ten acres being the same more or less to his part at his mothers death as aforesaid. To have and to hold the same together with all and singular the tenements, hereditaments, privileges and appurtenances thereunto belonging in anywise appurtenanting.

And also all the estate, interest and claim whatsoever in law as well as in equity which the party of the first part has in and to the premises hereby conveyed unto the said party of the second part his heirs and assigns and to their only proper use and benefit and behoof.

And the said Charles H. Lewis party of the first part hereby expressly



waive, relinquish release and convey unto the said party of the second part his heirs, executors, administrators and assigns all right title claim interest and benefit whatever in and to the above described premises and each and every part thereof which is given by or results from all laws of this state pertaining to the exemption of homestead. Provided always and these presents are upon the express condition that if the said party of the first part his heirs, executors, or administrators shall well and truly pay or cause to be paid to the said party of the second part, his heirs, executors or administrators or assigns the aforesaid sum of money with such interest thereon as the time and in the manner specified in the above mentioned promissory note according to the true intent and meaning thereof then in that case these presents and every thing herein expressed shall absolutely null and void, otherwise in full force.

In witness whereof the <sup>said</sup> party of the first part hereunto set his hands and seals, the day and year above written, In presence of witnesses  
Witnesses; Chas. H. Lewis (Seal)

D. G. McKinney.

Virginia, Lee County to-wit;

I, E. M. Cooper a Notary Public in and for the County of Lee, State of Virginia, do certify that Chas. H. Lewis whose name is signed to the above deed, bearing date on the 18th day of November 1903, personally appeared before me in my County and State aforesaid, and acknowledged the same to be his deed and act. Given under my hand this the 18th day of November 1903. My commission expires July 10th 1907.

E. M. Cooper N. P.

Virginia, Lee County to-wit ;

In the Office of the Clerk of the County Court for said County, the 21st day of November 1903. This deed was presented, and together with the certificate of acknowledgment thereto annexed, admitted to record.

Teste; B. M. Morgan, Clerk.

A Copy, Teste; B. M. Morgan ----- Clerk.

D. B. 41 page, 28 &c)



Chas. H. Lewis  
To { Deed  
W. S. G. Legg

---

copy

Clerk Coets



THIS DEED made the 15th day of March 1883, between Thomas N. Legg of the County of Lee and State of Virginia, of the one part, and Louiza J. Legg of the County and State aforesaid of the other part;

Witnesseth, that for and in consideration of the sum of Two hundred and twenty five dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Thomas N. Legg doth grant, bargain and sell unto the said Louiza J. Legg a certain tract or parcel of land lying and being in the said County of Lee, and in the Crab-orchard and bounded as follows to-wit; Beginning at a white oak by the wagon road on the top of a ridge, thence S 10 E to a stake on the original Preston line and with lines of the same Eastwardly to two white oaks and maple on the east fork of the Big Craborchard Creek thence Northwardly to said wagon road and with the same to the beginning containing 30 acres be the same more or less and of the land of said Thomas N. Legg the said Louiza J. Legg to hold said tract of land during her life time to descend to her legal heirs after her death and the said Thomas N. Legg covenants with the said Louisa J. Legg that he will warrant generally the land hereby conveyed.

Witness the following signatures and seals.

Thomas N. Legg (Seal)

Neoemi x M. Legg (Seal)

Lee County to-wit;

I, Carr Bailey a Commissioner in chancery for the Circuit Court of Lee County in the State of Virginia, do certify that Thomas N. Legg whose name is signed to the writing hereto annexed, bearing date on the 15th day of March 1883, has acknowledged the same before me in my County aforesaid. Given under my hand this March 15th 1883.

Carr Bailey Comr. in Chy.

Virginia, Lee County to-wit;

In the Office of the Clerk of said County, the 18th day of <sup>June</sup> ~~June~~ 1894. This deed was presented, and together with the certificate thereto annexed admitted to record.

Teste; S. V. F. Richmond Clerk.

A Copy, Teste; B. M. Morgan ----- Clerk.  
(D. B. 30 page 300)



Thomas N. Legg  
To / Deed  
Louisa J Legg

40  
75-  
60  
1.75-  
copy

Clerk 40 cts.



KNOW ALL MEN BY THEIR PRESENCE That I James Parker, of the County of Lee & State of Va. are held and firmly bound unto William S. Parsons of the same County and State aforesaid in the Just <sup>Sum</sup> of fifty dollars which payment Bind myself heirs &c to make my seal and date this June the 10th, 1840 to make a deed of general warrantee to a certain tract or partial of land lying and being in the aforesaid county & state on the waters of Janes Creek, Beginning at a maple stump on the south side of Janes Creek thence With an old marked line S. 30 E. 127 poles two chestnuts & maple N. 66 E. 61 poles to a white oak thence North 34 E.— poles to stake on the Johnson line thence with same to spruce pine on the bank of the Creek & thence with the creek to the Beginning containing forty acres more or less then the obligation to be void and of no affect otherwise in full force and virtue Both in law & Equity given under my hand and seal witness.

James Parker. (Seal.)

Charles Pennington.

Thomas Parsons.

I assign the within Bond to Andrew Bailey this February the 3rd, 1860.

William S. Parsons.

Virginia Lee County to-wit:

Personally appeared before me Frances M. Parsons a Justice of the peace for the County and State aforesaid. Levi Pennington and states that Edward Penington Sold to James Parker forty acres of Land out of the McCrady survey lying on south side of Jones Creek in Craborchard in Lee county and that the forty acres never was taken in consideration in the devision of the McCrady Land amongst the several heirs of Edward Penington Deciest, Sworn to before me this 6th day of May, 1889.

F. M. Parsons: a Justice of the Peace.



Virginia Lee County to-wit:

In the office of the Clerk of the said County the 29th day of August, 1890 this bond was presented and together withe the affidavit, there to attached admitted to record.

Test John R. Gibson. Clerk:

A Copy Teste: -----

*J. H. Curing* Clerk.

(Deed Book No. 25, Page 402)



James Parker

to { Bond  
W. S. Parsons.

---

Copy.

Clerk \$0.50



D.G.McKinney,

Complainant,

vs In Chancery, In the Circuit Court for Lee Co., Va.

C.H.Lewis, F.S.Davidson, B.F.Davidson, U.S.G.Legg and Wm.Bailey.

This suit is pening in the Circuit Court for Lee County Virginia, on the Chancery side thereof. The Genereal object of this suit is to collect a debt of \$100 owing by note executed by the said C.H.Lewis, F.S.Davidson and B.F.Davidson to the said D.G.McKinney, and to attach the estate of the said obligors on said note, the said C.H.Lewis, F.S.Davidson and B.F.Davidson to secure the payment of said sum of money. William Bailey is made a party to this suit be#cause he is suggested as being indebted to said C.H.Lewis; U.S. Grant Legg is made a party to this suit because he has a mort#gage upon the interest in the real estate of the said C.H.Lewis herein sought to be attached and subjected to the payment of said sum of money due said plaintiff, and consequently had a prior lien upon said real estate of said Lewis; the furthur object of this suit is to ascertain all the liens against said real estate and to have enough thereof sold to satisfy the payment of said liens as ascertained.

The persons whose estate is intened to be affected by this <sup>& Attachment</sup> suit, is the estate of C.H.Lewis and F.S.Davidson, which consists in a one third each undivided reversionary interest in certain tract of land situated in Lee County, Va., in the Upper Craborchard, on the waters of Big Craborchard Creek, adjoining the lands of U.S.G. Legg, containing about 30 acres and being the same land that was conveyed by deed from Thomas N.Legg to Eliza J.Legg by deed dated the \_\_\_\_ day of \_\_\_\_, 18\_\_\_\_. recorded in Deed Book No'30. page 300, to which reference is here made for a more particular description of said tract of land. Given under my hand this the 29th day of Jan, 1904.



Of counsel for D.G.McKinney.



Virginia, Lee County to-wit;

In the Office of the Clerk of the County Court for said County, the 29th, day of January 1904. The foregoing writing was presented, and admitted to record at 10,40 o'clock, A.M.

Teste; B. M. Maynor ----- Clerk.

D. G. McKinney,

vs: His Petitioners,

O. H. Lewis, et al.

.....  
This Petition 29, 1904  
at 10.40 a.m.

Recorded in Book  
Book 20.41 page 167

Clerk 75-etc -



In the Sevent Court of the County of Lee

D. G. McKinney

Plaintiff

against

In

C. H. Lewis, F. S. Davidson, B. F.

Davidson U. S. Grant Legg &

Wm Barker

Defendant S.

D. G. McKinney

maketh oath and saith, that he believes

the claim, for which the above entitled action is instituted, to be just; that he, the affiant, believes

that he, the said D. G. McKinney is entitled to and ought to recover in said ~~action~~ <sup>suit-</sup>

\$ 100.00 (at the least), with interest thereon, to be computed at the rate of 6  
which will become due & payable on the 17th day of June, 1904  
per centum per annum, from the 17th day of June 1904, till paid; and that to the

best of his belief the said defendant C. H. Lewis

1. ~~a foreign corporation, or~~ is not a resident of this State, and has estate ~~or~~ <sup>or</sup>  
debts owing to said defendant within the County of Lee in which the action is

~~or~~ <sup>are</sup> sued with a defendant residing therein;

Acct that F. S. Davidson & B. F. Davidson

2. are ~~removing or~~ about to remove out of this State, with intent to change their  
domicile.

C. H. Lewis F. S. Davidson & B. F. Davidson

3. are ~~removing, or~~ intend to remove, ~~or have removed~~

their own estate, or the proceeds of the sale of their property, or a material part of  
such estate or proceeds, out of this State, so that process of execution on a judgment, when  
obtained in said action, will be unavailing;

that said C. H. Lewis, F. S. Davidson & B. F. Davidson are

4. are ~~converting, or~~ about to convert, ~~or have converted,~~ their property or some  
part thereof into money, securities, or evidences of debt, with intent to hinder, delay or defraud  
their creditors.

5. Ha ~~assigned or disposed of, or~~ about to assign or dispose of, estate,  
or some part thereof, with intent to hinder, delay or defraud creditors.

D. G. McKinney

Subscribed and sworn to before me, this 29th day of June, 1904.

A. B. Munsey C.



D. G. McKinney

vs. {

AFFIDAVIT FOR  
ATTACHMENT.

Filed the 29<sup>th</sup> day of Feby 1904

Filed January 29<sup>th</sup> 1904  
A. B. Munsey Clerk



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 29th day of January 1904.

against D. G. McKinney Plaintiff

In Chancery

to H. Lewis, F. S. Davidson, B. F. Davidson  
M. S. Grant Legg and Wm Barker Defendants

The object of this suit is to recover of to H. Lewis, F. S. Davidson  
and B. F. Davidson, the sum of (\$100.00) One hundred dollars  
which they owe the plaintiff by note, and to attach the  
estate of said to H. Lewis, F. S. Davidson and B. F. Davidson  
to secure the same, and the costs of this suit, and to ascertain  
the liens against the real estate of to H. Lewis, and F. S. Davidson  
and B. F. Davidson and to have the same sold to pay said  
liens if necessary.

And an affidavit having been made and filed that the defendant to H. Lewis

is <sup>a</sup> not resident of the State of Virginia, it is ordered that he do appear here within fifteen days  
after due publication hereof, and do what may be necessary to protect his interest in this suit. And  
it is further ordered that a copy hereof be published once a week for four weeks in the Southwest  
Virginian, and that a copy be posted at the front door of the court-house of this County  
on the first day of the next term of the Circuit Court.

A copy—Teste:

Pennington Bros p. q.

A. B. Mursey Clerk.



D. G. McKinney

vs.

}

ORDER OF  
PUBLICATION.

L. H. Lewis et al



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 27<sup>th</sup> day of January 1904.

against D. G. McKinney Plaintiff

In Chancery

L. H. Lewis, F. S. Davidson, B. F. Davidson  
U. S. Grant, Legg and Wm Barker Defendants

The object of this suit is to recover of L. H. Lewis, F. S. Davidson, and B. F. Davidson the sum of (\$100.00) one hundred dollars which they owe the plaintiff by note, and to attach the estate of said L. H. Lewis, F. S. Davidson and B. F. Davidson to secure the same and the costs of this suit, and to ascertain the liens against the real estate of the said L. H. Lewis, and F. S. Davidson and B. F. Davidson and to have the same sold to pay said liens if necessary.

And an affidavit having been made and filed that the defendant L. H. Lewis

is not <sup>a</sup> resident of the State of Virginia, it is ordered that he do appear here within fifteen days after due publication hereof, and do what may be necessary to protect his interest in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the Southwest Virginian, and that a copy be posted at the front door of the court-house of this County on the first day of the next term of the Circuit Court.

A copy—Teste:

Pennington Bros p. q.

A. B. Munsey Clerk.



*D. G. McKinney*

vs. {

ORDER OF  
PUBLICATION.

*Le. H. Lewis et al*



In the Clerk's Office of the Circuit Court of the County of  
Lee

D. G. McKinney  
against

Plaintiff,

In Chancery

L. H. Lewis, F. S. Davidson, B. F. Davidson  
U. S. Grant Legg and Wm Barker  
Defendants.

This day D. G. McKinney personally appeared  
before me, A. B. Munsey Clerk of the said Court,  
and being duly sworn, made oath that L. H. Lewis

defendant in the said suit is not <sup>a</sup> resident of the State of Virginia,

Given under my hand as Clerk of the said Court, this 29<sup>th</sup> day of January 1904.

A. B. Munsey Clerk



*D. G. McKinney*

vs.

}

AFFIDAVIT FOR ORDER  
OF  
PUBLICATION.

*Le. H. Lewis*

*Peruington Bros p. q.*

*Filed January 29, 1904*  
*A. B. Munsey Clerk*



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *to H. Lewis, F.S. Davidson,*  
*B. F. Davidson, U.S. Grant Legg and Wm Barker*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held  
for the said court, on the *3rd* Monday in *February 1904* ~~189~~, to answer a  
bill in chancery exhibited against *them* in our said court by *D. G.*  
*McKinney*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the  
court-house, the *29th* day of *January 1904* ~~189~~, and in the *128th* year of the  
Commonwealth.

*A. B. Munsey Clerk*



The necessary affidavit having been made and filed, the officer to whom this process is directed is ordered to attach the estate of C. H. Lewis, J. S. Davidson and B. F. Davidson situated in Lee County, Virginia, and that you secure such estate as attached in your hands, or so provide that the same be may be forthcoming and liable to further proceeding thereupon to be had before said Circuit Court, on the 15th day of February, 1904, and that you make return hereof at the rules to be held at the Clerk's office of said Court, on the 3rd Monday in February, 1904.  
 Witness A. B. Murrey Clerk of our said Court at the Court house the 29th of February 1904, and in the 128th year of the Commonwealth.  
 A. B. Murrey Clerk

Form No. 300½.

D. H. McKinney

vs.

SUBPOENA  
IN CHANCERY

C. H. Lewis et al

Pennington Bros p. q.

To 2nd February Rules.

1904 Circuit Court.

P. M. Bell, Sheriff of Lee County.

D. S.

Executed Feb. 1, 1904, by delivering a true copy of the within summons to F. S. Davidson, B. F. Davidson, U. S. Grant Legg, and W. T. Barker, and further executed by levying upon the real estate of F. S. Davidson and C. H. Lewis, consisting of a one third each undivided contingent reversionary interest in the lands on which Eliza J. Legg lives, and being the same land conveyed to Eliza J. Legg by Thos N. Legg for life and after her death to go to her legal heirs. This tract of land is situated in the Craborchard on the waters of Big Craborchard Creek, and adjoins the lands of U. S. Grant Legg. A copy of this summons to levy is being returned in form.



D. G. M. Quincy

75.  $\frac{3}{3}$  In Chouney

C. H. Lewis & Co

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Mumsey Clerk \$ 4.14 } Paid  
Tax 1.50 }

THE GLOBE TENSION ADJUSTABLE ENVELOPE.  
SIZE 109